

<b>UNITED STATES OF AMERICA</b> <b>NATIONAL LABOR RELATIONS BOARD</b> <b>CHARGE AGAINST EMPLOYER</b>		<b>DO NOT WRITE IN THIS SPACE</b> Case <span style="float: right;">Date Filed</span> <b>03-CA-157918</b> <span style="float: right;"><b>8/13/2015</b></span>	
<b>INSTRUCTIONS:</b> File an original and 4 copies of this charge with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.			
<b>1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT</b>			
a. Name of Employer Sharel Ventures LLC, d/b/a McDonald's & McDonald's Corp., as Joint and Single Employers		b. Number of workers employed <b>OVER 100,000</b>	
c. Address  Sharel Ventures LLC 45 Jay Scutti Blvd, Rochester, NY 14623  McDonald's Corp. 2111 McDonald's Dr. Oak Brook, IL 60523	d. Employer Representative  <div style="background-color: black; color: white; padding: 2px; text-align: center;">(b) (6), (b) (7)(C)</div>  McDonald's: Gloria Santana	e. Telephone No.  (585) 292-0060	
f. Type of Establishment Restaurant		g. Identify principal product or service Food Service	
h. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsection s(1) and (3) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act.			
<b>2. BASIS OF THE CHARGE</b> ( <i>Set forth a clear and concise statement of the facts constituting the alleged unfair labor practices</i> )  On a date within the last six months, employer interfered with, and discriminated against employees in the exercise of their Section 7 rights by engaging in the following conduct: <ul style="list-style-type: none"> <li>In or around (b) (6), 2015, cutting the hours and days of (b) (6), (b) (7)(C) in retaliation for participating in the (b) (6), (b) (7)(C) 2015 nationwide fast food strike;</li> <li>In or around (b) (6), (b) (7)(C) 2015, disciplining (b) (6), (b) (7)(C) in retaliation for engaging in union activity;</li> <li>Reducing (b) (6), (b) (7)(C) pay in retaliation for engaging in union activity.</li> </ul>			
<b>3. Full name of party filing charge</b> ( <i>if labor organization, give full name, including local name and number</i> ) Fast Food Workers Committee			
4a. Address ( <i>street and number, city, state, and ZIP code</i> )  2-4 Nevins St Brooklyn, NY 11217		4b. Telephone No.  <div style="background-color: black; color: white; padding: 2px; text-align: center;">(b) (5), (b) (6), (b) (7)(C)</div>	
<b>5. Full name of national or international labor organization of which it is an affiliate or constituent unit</b> ( <i>to be filled in when charge is filed by a labor organization</i> )			
<b>6. DECLARATION</b> <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 60%;"> <p style="text-align: center;">I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.</p> <div style="text-align: center;">             _____            (Signature of representative or person making charge)         </div> </div> <div style="width: 35%; text-align: center;">           Attorney            _____            (Title if any)         </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 60%;">           Address _____            (Date) _____         </div> <div style="width: 35%; text-align: center;">           (Telephone No.) _____         </div> </div>			
<b>WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)</b>			



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 3  
130 S Elmwood Ave Ste 630  
Buffalo, NY 14202-2465

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (716)551-4931  
Fax: (716)551-4972



Download  
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Mobile App

August 13, 2015

(b) (6), (b) (7)(C)

Sharel Ventures LLC, d/b/a McDonald's  
45 Jay Scutti Blvd.  
Rochester, NY 14623

Re: Sharel Ventures LLC, d/b/a McDonald's &  
McDonald's Corp., as Joint and Single Employers  
Case 03-CA-157918

Dear (b) (6), (b) (7)(C):

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Examiner PATRICIA E. PETOCK whose telephone number is (716)551-4944. If this Board agent is not available, you may contact Supervisory Field Examiner SANDRA L. LARKIN whose telephone number is (716)551-4946.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, [www.nlrb.gov](http://www.nlrb.gov), or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Presentation of Your Evidence:** We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

August 13, 2015


We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

**Procedures:** We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, [www.nlr.gov](http://www.nlr.gov). However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov) or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Rhonda P. Ley". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

RHONDA P. LEY  
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc: GLORIA SANTONA  
MCDONALD'S CORP.  
2111 MCDONALD'S DR.  
OAK BROOK, IL 60523-2199

Revised 3/21/2011

## NATIONAL LABOR RELATIONS BOARD

## QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Sharel Ventures LLC, d/b/a McDonald's &amp; McDonald's Corp., as Joint and Single Employers

CASE NUMBER

03-CA-157918

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify )

3. IF A CORPORATION or LLC

A STATE OF INCORPORATION  
OR FORMATION

B NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7. A. PRINCIPAL LOCATION:

B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A Total:

B At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates )

YES NO

A Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$

B If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$

C If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$

D Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$

E If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

F Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

G Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$

H Gross Revenues from all sales or performance of services (Check the largest amount):

☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I Did you begin operations within the last 12 months? If yes, specify date: \_\_\_\_\_

10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**SHAREL VENTURES LLC. D/B/A MCDONALD'S &  
MCDONALD'S CORP., AS JOINT AND SINGLE  
EMPLOYERS**

Charged Party

and

**FAST FOOD WORKERS COMMITTEE**

Charging Party

**Case 03-CA-157918**

**AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, state under oath that on August 13, 2015, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

**(b) (6), (b) (7)(C)**

Sharel Ventures LLC, d/b/a McDonald's  
45 Jay Scutti Blvd.  
Rochester, NY 14623

GLORIA SANTONA  
MCDONALD'S CORP.  
2111 MCDONALD'S DR.  
OAK BROOK, IL 60523-2199

August 13, 2015

Date

Jerry T. Tidd, Designated Agent of NLRB

Name

/s/Jerry T. Tidd

Signature



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 3  
130 S Elmwood Ave Ste 630  
Buffalo, NY 14202-2465

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (716)551-4931  
Fax: (716)551-4972



Download  
NLRB  
Mobile App

August 13, 2015

FAST FOOD WORKERS COMMITTEE  
2-4 Nevins Street  
Brooklyn, NY 11217-1010

Re: Sharel Ventures LLC. d/b/a McDonald's &  
McDonald's Corp., as Joint and Single  
Employers  
Case 03-CA-157918

Dear Sir or Madam:

The charge that you filed in this case on August 13, 2015 has been docketed as case number 03-CA-157918. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Examiner PATRICIA E. PETOCK whose telephone number is (716)551-4944. If this Board agent is not available, you may contact Supervisory Field Examiner SANDRA L. LARKIN whose telephone number is (716)551-4946.

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**Presentation of Your Evidence:** As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you

August 13, 2015

fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

**Procedures:** We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website [www.nlr.gov](http://www.nlr.gov). However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Rhonda P. Ley". The signature is written in a cursive, flowing style.

RHONDA P. LEY  
Regional Director

cc: Matthew J. Fusco, ESQ.  
TREVETT CRISTO SALZER &  
ANDOLINA, PC  
2 State Street, Suite 1000  
Rochester, NY 14614



NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Sharel Ventures LLC, d/b/a McDonald's & McDonald's Corp.,  
as Joint and Single Employers

and

(b) (6), (b) (7)(C)

CASE

☐ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

☐ GENERAL COUNSEL  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF \_\_\_\_\_

(b) (6), (b) (7)(C)

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Matthew J. Fusco, Esq.

MAILING ADDRESS: Trevett Cristo, 2 State Street, Suite 1000, Rochester, NY 14614

E-MAIL ADDRESS: mfusco@trevettcristo.com

OFFICE TELEPHONE NUMBER: 585-454-2181

CELL PHONE NUMBER: \_\_\_\_\_ FAX: 585-454-4026

SIGNATURE: \_\_\_\_\_

(Please sign in ink.)

DATE: \_\_\_\_\_

<sup>1</sup> IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



**From:** (b) (6), (b) (7)(C)  
**To:** [Petock, Patricia E.](#)  
**Subject:** (b) (6), (b) (7)(C) schedules  
**Date:** Wednesday, August 19, 2015 12:28:52 PM  
**Attachments:** [image1.JPG](#)  
[ATT00001.txt](#)  
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(b) (6), (b) (7)(C)

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W/O AVAILABILITIES

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**Abstract**

1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 26

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## CHILD

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**TABLE 1**

**(b) (6), (b) (7)(C)**

The material contained herein is business confidential information of your employer and may not be used or copied without the prior written permission of your employer, unless it is being used in Employee Protected Communications. Employee Protected Communications are communications by non-supervisory employees regarding terms and conditions of employment, such as wages and benefits, hours, working conditions and personnel actions.

(b) (6), (b) (7)(C)

**(b) (6), (b) (7)(C)**

and herein is business confidential information of your employer and may not be used or copied without the written permission of your employer, unless it is being used in Employee Protected Communications. Communications are communications by non-supervisory employees regarding terms and conditions of employment, such as wages and benefits, hours, working conditions and personnel actions.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 3  
130 S Elmwood Ave Ste 630  
Buffalo, NY 14202-2465

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (716)551-4931  
Fax: (716)551-4972

Agent's Direct Dial: (716)551-4944

August 20, 2015

Doreen S. Davis, Attorney at Law  
JONES DAY  
222 E 41st St  
New York, NY 10017-6739

Michael S. Ferrell, Esq.  
Jones Day  
77 W Wacker Dr Ste 3500  
Chicago, IL 60601-1692

Ilana Yoffe, Esq.  
JONES DAY  
222 E 41st St  
New York, NY 10017-6739

Re: Sharel Ventures LLC. d/b/a McDonald's &  
McDonald's Corp., as Joint and Single  
Employers  
Case 03-CA-157918

Dear Ms. Davis, Mr. Ferrell, and Ms. Yoffe:

I am writing this letter to advise you that it is now necessary for me to take evidence from your client regarding the allegations raised in the investigation of the above-captioned matter. As explained below, I am requesting to take affidavits on or before September 11, 2015 with regard to certain allegations in this case.

**Allegations:** The allegations for which I am seeking your evidence are as follows.

On or about (b) (6), (b) (7)(C) 2015, (b) (6), (b) (7)(C) informed (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) wages would be cut in retaliation for engaging in union activity.

On or about (b) (6), (b) (7)(C) 2015, (b) (6), (b) (7)(C) disciplined (b) (6), (b) (7)(C) in retaliation for engaging in union activity.

Since (b) (6), (b) (7)(C) 2015, (b) (6), (b) (7)(C) work hours have been cut in retaliation for engaging in union activity.



August 20, 2015

Although not alleged in the charge, the investigation revealed that in (b) (6), (b) (7)(C) 2015, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) overheard a conversation between (b) (6), (b) (7)(C) and another crew member/trainer regarding signing the Fight for Fifteen petition. (b) (6), (b) (7)(C) sent (b) (6), (b) (7)(C) to the cooler. While (b) (6), (b) (7)(C) was gone, (b) (6), (b) (7)(C) instructed the crew member/trainer not to speak to (b) (6), (b) (7)(C).

**Board Affidavits:** I am requesting to take affidavits from (b) (6), (b) (7)(C) and any other individuals you believe have information relevant to the investigation of the above-captioned matter. Please be advised that the failure to present representatives who would appear to have information relevant to the investigation of this matter, for the purposes of my taking sworn statements from them, constitutes less than complete cooperation in the investigation of the charge. Please contact me as soon as possible to schedule these affidavits.

**Documents:** Please provide the following documents, along with any and all other evidence you deem to be relevant to the case:

1. All discipline notices given to (b) (6), (b) (7)(C)
2. Discipline notices given to other employees for the same misconduct
3. The Employers handbook or other document that shows its written discipline policy.
4. The Employers handbook or other document that shows its solicitation policy.
5. Any no-solicitation memos, documents or other literature promulgated by the Employer since January 2015.
6. Payroll records for (b) (6), (b) (7)(C) that show (b) (6), (b) (7)(C) rate of pay and the number of hours (b) (6), (b) (7)(C) worked from (b) (6), (b) (7)(C) 2015 through the present date.

**Date for Submitting Evidence:** To resolve this matter as expeditiously as possible, you must provide your evidence and position in this matter by **September 11, 2015**. If you are willing to allow me to take affidavits, please contact me as soon as possible to schedule a time to take affidavits. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), select **E-File Documents**, enter the **NLRB case number**, and follow the detailed instructions. If I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Sharel Ventures LLC. d/b/a McDonald's & - 3 -  
McDonald's Corp., as Joint and Single  
Employers  
Case 03-CA-157918

August 20, 2015

Please contact me at your earliest convenience by telephone, (716)551-4944, or e-mail, [patricia.petock@nlrb.gov](mailto:patricia.petock@nlrb.gov), so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

PATRICIA E. PETOCK  
Field Examiner



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 3  
130 S Elmwood Ave Ste 630  
Buffalo, NY 14202-2465

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Agent's Direct Dial: (716)551-4944

August 20, 2015

James P. Anelli, Esq.  
1037 Raymond Blvd. Floor 16  
Newark, NJ 07102

Re: Sharel Ventures LLC. d/b/a McDonald's &  
McDonald's Corp., as Joint and Single  
Employers  
Case 03-CA-157918

Dear Mr. Anelli:

I am writing this letter to advise you that it is now necessary for me to take evidence from your client regarding the allegations raised in the investigation of the above-captioned matter. As explained below, I am requesting to take affidavits on or before September 11, 2015 with regard to certain allegations in this case.

**Allegations:** The allegations for which I am seeking your evidence are as follows.

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Since (b) (6), (b) (7)(C) 2015, (b) (6), (b) (7)(C) work hours have been cut in retaliation for engaging in union activity.

Although not alleged in the charge, the investigation revealed that in (b) (6), (b) (7)(C) 2015, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) overheard a conversation between (b) (6), (b) (7)(C) and another crew member/trainer regarding signing the Fight for Fifteen petition. (b) (6), (b) (7)(C) sent (b) (6), (b) (7)(C) to the cooler. While (b) (6), (b) (7)(C) was gone, (b) (6), (b) (7)(C) instructed the crew member/trainer not to speak to (b) (6), (b) (7)(C)

**Board Affidavits:** I am requesting to take affidavits from (b) (6), (b) (7)(C) and any other individuals you believe have information relevant to the investigation of the above-captioned matter. Please be advised that the failure to present representatives who would appear to have information relevant to the investigation of this matter, for the purposes of my taking sworn statements from

August 20, 2015

them, constitutes less than complete cooperation in the investigation of the charge. Please contact me as soon as possible to schedule these affidavits.

**Documents:** Please provide the following documents, along with any and all other evidence you deem to be relevant to the case:

1. All discipline notices given to (b) (6), (b) (7)(C)
2. Discipline notices given to other employees for the same misconduct
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4. The Employers handbook or other document that shows its solicitation policy.
5. Any no-solicitation memos, documents or other literature promulgated by the Employer since January 2015.
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**Date for Submitting Evidence:** To resolve this matter as expeditiously as possible, you must provide your evidence and position in this matter by **September 11, 2015**. If you are willing to allow me to take affidavits, please contact me as soon as possible to schedule a time to take affidavits. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to **www.nlr.gov**, select **E-File Documents**, enter the **NLRB case number**, and follow the detailed instructions. If I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, (716)551-4944, or e-mail, [patricia.petock@nlrb.gov](mailto:patricia.petock@nlrb.gov), so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

/s/ Patricia E Petock

PATRICIA E. PETOCK  
Field Examiner



**From:** [Michael Geraci](#)  
**To:** [Petock, Patricia E.](#)  
**Subject:** RE: 03-CA-157918 McDonald's  
**Date:** Tuesday, September 1, 2015 9:36:36 AM  
**Attachments:** [image001.jpg](#)

---

Good morning Pat,

I apologize for the delay in getting this information to you. (b) (6), (b) (7)(C) indicated that when (b) (6), (b) (7)(C) was hired in (b) (6), (b) (7)(C) was making (b) (6), (b) (7)(C) rate then went up to (b) (6), (b) (7)(C) in (b) (6), (b) (7)(C) in accordance with the minimum wage increase. (b) (6), (b) (7)(C) began making (b) (6), (b) (7)(C) in (b) (6), 2015, which is also when the conversation with (b) (6), (b) (7)(C) occurred with respect to a \$.10 raise that was never received (b) (6), (b) (7)(C), (b) (7)(D) In (b) (6), (b) (7)(C) 2015 (b) (6), (b) (7)(C) was informed that (b) (6), (b) (7)(C) rate was being cut to (b) (6), (b) (7)(C)

Please let me know if you need any additional information in regard to this matter and I will be happy to assist.

Thanks,

Mike

*Michael F. Geraci, Esq.*

Trevett Cristo Law



2 State Street, Suite 1000

Rochester, NY 14614

**PHONE:** (585) 454-2181 Ext. 129

**FAX:** (585) 454-4026

**Email:** [MGeraci@trevettcristo.com](mailto:MGeraci@trevettcristo.com)

---

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---

**From:** Petock, Patricia E. [mailto:Patricia.Petock@nlrb.gov]

**Sent:** Monday, August 31, 2015 10:27 AM  
**To:** Michael Geraci <MGeraci@trevettcristo.com>  
**Subject:** FW: 03-CA-157918 McDonald's

Mike,

I haven't received a response to my inquiry of (b) (6), (b) (7)(C) (see below) regarding wages that (b) (6), (b) (7)(C) earned. Please promptly provide a response.

Pat

**From:** Petock, Patricia E.  
**Sent:** (b) (6), (b) (7)(C), 2015 (b) (6), (b) (7)(C)  
**To:** 'Michael Geraci'; (b) (6), (b) (7)(C)  
**Subject:** 03-CA-157918 McDonald's

Upon reviewing (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) How much were you earning when you were hired in (b) (6), (b) (7)? I was under the impression that you were earning (b) (6), because you had the (b) (6), (b) (7)(C) and management kept it that way even though in (b) (6), (b) (7)(C) you changed your availability (b) (6), (b) (7)(C) Please clarify what you were earning from the start of your employment and identify how much and when any raises and/or changes to your wages were made or promised.

**Patricia Petock**  
Field Examiner  
National Labor Relations Board, Region 3  
130 S. Elmwood Ave. Suite 630  
Buffalo, NY 14202  
Phone: 716-551-4944  
Fax: 716-551-4972

**From:** [Shifton, Christina L.](#)  
**To:** [Petock, Patricia E.](#)  
**Cc:** [Anelli, James P.](#)  
**Subject:** RE: Sharel Ventures, LLC d/b/a McDonald's & McDonald's Corp. Cash 03-CA-157918 [IWOV-LECLAIR1.FID879329]  
**Date:** Thursday, September 3, 2015 10:29:19 AM

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Ms. Petock,

We will allow you to take affidavits from each of the (b) (6), (b) (7)(C) witnesses separately as you suggest and will have copies of all supporting documentation available for you. We will be providing a position statement and should be able to get that to you in advance of the meeting. We also plan on providing draft affidavits to you which summarize our investigation of the case.

Thank you for your accommodation of us in coming to Rochester for the meeting. If there is anything you require for the meeting, please let me know.

We have a security system on the office. When you arrive, there is a button to the right of the elevator which you will need to press. The intercom will call into our office. Please ask for me and our staff will unlock the elevator for you, allowing you to come to the 2<sup>nd</sup> floor.

Thank you,  
Christina

**Christina L. Shifton**  
**Attorney at Law**  
LECLAIR**RYAN**  
70 Linden Oaks, Suite 210  
Rochester, New York 14625  
(585) 270-2146 Direct  
(585) 270-2176 Fax  
(814) 771-0081 Mobile  
[Christina.Shifton@leclairryan.com](mailto:Christina.Shifton@leclairryan.com)  
<http://www.leclairryan.com>

Please consider the environment before printing this email.

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**From:** Petock, Patricia E. [mailto:Patricia.Petock@nlrb.gov]  
**Sent:** Thursday, September 03, 2015 10:18 AM  
**To:** Shifton, Christina L.  
**Subject:** RE: Sharel Ventures, LLC d/b/a McDonald's & McDonald's Corp. Cash 03-CA-157918 [IWOV-LECLAIR1.FID879329]

Ms. Shifton,

I am able to meet with you and your witnesses in your office on (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C). I would like to clarify my understanding that you will allow me to take individual affidavits from each of the (b) (6), (b) (7)(C) witnesses. If this is the case, I would like to meet with you and each witness separately to take their affidavit. Affidavit appointments typically last one

hour or longer. If you also plan on providing a position statement, it would be helpful if you could submit it prior to the meeting. Also, please have the witnesses bring any written documents to the appointment that will support their testimony such as disciplines given to (b) (6), (b) (7)(C) employee handbooks or policies that the witnesses relied on to discipline (b) (6), (b) (7)(C)

Sincerely,

Pat Petock

---

**From:** Shifton, Christina L. [<mailto:Christina.Shifton@leclairryan.com>]  
**Sent:** Wednesday, September 02, 2015 4:26 PM  
**To:** Petock, Patricia E.  
**Cc:** Anelli, James P.  
**Subject:** Sharel Ventures, LLC d/b/a McDonald's & McDonald's Corp. Cash 03-CA-157918 [IWOV-LECLAIR1.FID879329]

Ms. Petock,

I spoke with our client, (b) (6), (b) (7)(C), regarding setting up a meeting for the above-captioned charge regarding (b) (6), (b) (7)(C) would work best for them. (b) (6), (b) (7)(C) are all available at that time.

Please let me know if that date and time will work for you. As we discussed, if possible, we will have the meeting here at my office in Rochester.

Thank you,  
Christina

**Christina L. Shifton**  
**Attorney at Law**  
**LECLAIRRYAN**  
70 Linden Oaks, Suite 210  
Rochester, New York 14625  
(585) 270-2146 Direct  
(585) 270-2176 Fax  
(814) 771-0081 Mobile  
[Christina.Shifton@leclairryan.com](mailto:Christina.Shifton@leclairryan.com)  
<http://www.leclairryan.com>

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[emailadministrator@leclairryan.com](mailto:emailadministrator@leclairryan.com) and delete this e-mail and all copies and attachments.

**MEMORANDUM**

TO: File DATE: (b) (6), (b) (7)(C)

RE: Sharel Ventures LLC. d/b/a McDonald's & McDonald's Corp., as Joint and Single  
Employers  
Case 03-CA-157918

FROM: PATRICIA E. PETOCK, FIELD EXAMINER

**CONVERSATION WITH Jim Anelli**

(b) (5), (b) (6), (b) (7)(C)

(b) (5)

**From:** [Ley, Rhonda](#)  
**To:** [Harris, Vallana M.](#); [Larkin, Sandra L.](#); [Petock, Patricia E.](#); [Murphy, Paul](#)  
**Subject:** FW: 03-CA-157918 Sharel Ventures, LLC d/b/a McDonald"s & McDonald"s USA, LLC  
**Date:** Thursday, October 22, 2015 2:24:12 PM  
**Attachments:** [image001.gif](#)

---

The (b) (5), (b) (6), (b) (7)(C) .

*Rhonda P. Ley*

Regional Director  
Region 3, National Labor Relations Board  
130 South Elmwood, Suite 630  
Buffalo, NY 14202  
(716)551-4934  
[Rhonda.Ley@nrlrb.gov](mailto:Rhonda.Ley@nrlrb.gov)

---

**From:** Larkin, Sandra L.  
**Sent:** Thursday, October 22, 2015 2:18 PM  
**To:** Ley, Rhonda  
**Subject:** FW: 03-CA-157918 Sharel Ventures, LLC d/b/a McDonald's & McDonald's USA, LLC

---

**From:** Larkin, Sandra L.  
**Sent:** Wednesday, October 21, 2015 12:42 PM  
**To:** Ley, Rhonda  
**Subject:** FW: 03-CA-157918 Sharel Ventures, LLC d/b/a McDonald's & McDonald's USA, LLC

(b) (5)

Once a determination is made, we have to notify RA Jaffe, Region 2, before we notify the parties.

---

**From:** Petock, Patricia E.  
**Sent:** Wednesday, October 21, 2015 11:16 AM  
**To:** Larkin, Sandra L.  
**Subject:** 03-CA-157918 Sharel Ventures, LLC d/b/a McDonald's & McDonald's USA, LLC

☐ [FIR.03-CA-157918.FIR - Agenda Outline.docx](#)

**Patricia Petock**

Field Examiner  
National Labor Relations Board, Region 3  
130 S. Elmwood Ave. Suite 630  
Buffalo, NY 14202  
Phone: 716-551-4944  
Fax: 716-551-4972



**From:** [Matthew Fusco](#)  
**To:** [Petock, Patricia E.](#)  
**Subject:** RE: 03-CA-157918 Sharel  
**Date:** Wednesday, October 28, 2015 11:44:14 AM

---

Pat

We'll go with the short form.

Thanks

Matt

Matthew J. Fusco  
Partner  
[mfusco@trevettlaw.com](mailto:mfusco@trevettlaw.com)

585-454-2181, ext. 136  
Toll-Free: 800-474-0793  
Fax: 585-454-4026

Trevett Cristo Salzer & Andolina P.C.  
[www.trevettlaw.com](http://www.trevettlaw.com)  
1000 Crossroads Building  
Two State Street  
Rochester, NY 14614

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**From:** Petock, Patricia E. [mailto:Patricia.Petock@nlrb.gov]  
**Sent:** Tuesday, October 27, 2015 12:48 PM  
**To:** Matthew Fusco <[mfusco@trevettcristo.com](mailto:mfusco@trevettcristo.com)>  
**Subject:** 03-CA-157918 Sharel

Matt,

Has the Union decided whether it will withdraw this charge? If I don't hear from you by Wednesday at noon, the short form dismissal letter will issue. If you prefer the long dismissal, please advise me prior to noon tomorrow. The Union can appeal the Region's decision with either letter.

Thanks

**Patricia Petock**  
Field Examiner

National Labor Relations Board, Region 3  
130 S. Elmwood Ave. Suite 630  
Buffalo, NY 14202  
Phone: 716-551-4944  
Fax: 716-551-4972

**From:** [Murphy, Paul](#)  
**To:** [Harris, Vallana M.](#); [Mathis, Viola J.](#)  
**Cc:** [Larkin, Sandra L.](#); [Petock, Patricia E.](#)  
**Subject:** FW: 03-CA-157918 Sharel  
**Date:** Wednesday, October 28, 2015 3:25:36 PM  
**Attachments:** [DIS.03-CA-157918.docx](#)

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I approve the draft short form dismissal draft.

---

**From:** Larkin, Sandra L.  
**Sent:** Wednesday, October 28, 2015 1:18 PM  
**To:** Murphy, Paul  
**Subject:** FW: 03-CA-157918 Sharel

(b) (5), (b) (6), (b) (7)(C)

---

**From:** Petock, Patricia E.  
**Sent:** Wednesday, October 28, 2015 1:16 PM  
**To:** Larkin, Sandra L.  
**Subject:** 03-CA-157918 Sharel  
The Union chose to take short-form dismissal letter.

**Patricia Petock**

Field Examiner  
National Labor Relations Board, Region 3  
130 S. Elmwood Ave. Suite 630  
Buffalo, NY 14202  
Phone: 716-551-4944  
Fax: 716-551-4972



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 03  
130 S Elmwood Ave Ste 630  
Buffalo, NY 14202-2465

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (716)551-4931  
Fax: (716)551-4972

October 29, 2015

Matthew J. Fusco, ESQ., Attorney  
Trevett Cristo Salzer & Andolina, PC  
2 State Street, Suite 1000  
Rochester, NY 14614

Re: Sharel Ventures LLC. d/b/a McDonald's &  
McDonalds's USA, LLC, as Joint and  
Single Employers  
Case 03-CA-157918

Dear Mr. Fusco:

We have carefully investigated and considered your charge that Sharel Ventures LLC, d/b/a McDonald's & McDonalds's USA, LLC. has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have concluded that further proceedings are not warranted, and I am dismissing your charge.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at [www.nlrb.gov](http://www.nlrb.gov). However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at [www.nlrb.gov](http://www.nlrb.gov), click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

**Appeal Due Date:** The appeal is due on **November 12, 2015**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than **November 11, 2015**. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 12, 2015**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlrb.gov](http://www.nlrb.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 12, 2015, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/ Paul J. Murphy

PAUL J. MURPHY  
Acting Regional Director

Enclosure

cc: (b) (6), (b) (7)(C)  
Sharel Ventures LLC, d/b/a McDonald's  
45 Jay Scutti Blvd.  
Rochester, NY 14623

Gloria Santona  
McDonalds's USA, LLC  
2111 McDonald's Dr.  
Oak Brook, IL 60523-2199

Doreen S. Davis, ESQ.  
Jones Day  
222 E 41st St  
New York, NY 10017-6739

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James P. Anelli, ESQ.  
1037 Raymond Blvd., Floor 16  
Newark, NJ 07102

Christina L. Shifton, ESQ.  
LeClair Ryan  
70 Linden Oaks  
Suite 210  
Rochester, NY 14625

Fast Food Workers Committee  
2-4 Nevins Street  
Brooklyn, NY 11217-1010

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**APPEAL FORM**

To: General Counsel  
Attn: Office of Appeals  
National Labor Relations Board  
1015 Half Street SE  
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

---

Case Name(s).

---

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

---

*(Signature)*



UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

FAST FOOD WORKERS COMMITTEE	)	
	)	
and	)	Case No. 03-CA-157918
	)	
Sharel Ventures LLC d/b/a McDonald's	)	
and McDonald's Corp.,	)	
as Joint and Single Employers	)	

**CHARGING PARTY'S APPEAL FROM REGIONAL DIRECTOR'S REFUSAL TO  
ISSUE COMPLAINT**

Charging Party, Fast Food Workers Committee ("FFWC" or "Union"), respectfully appeals from Region 3's decision to dismiss the above-captioned charge. This letter will outline the union's prima facie case for discrimination and argues that Employer's reasons for reducing (b) (6), (b) (7)(C) pay, cutting (b) (6), (b) (7)(C) hours, and disciplining (b) (6), (b) (7)(C) were pretextual. In particular, Employer's claim that it cut (b) (6), (b) (7)(C) hours because (b) (6), (b) (7)(C) changed (b) (6), (b) (7)(C) availability is a pretext as it imposed the reduction the same day (b) (6), (b) (7)(C) lead a union rally and nearly four months after (b) (6), (b) (7)(C) informed Employer about (b) (6), (b) (7)(C) limited availability.

For the foregoing reasons, the Union requests that Region 3's decision to dismiss the charge be reversed, that the charge be remanded, and that complaint be issued absent appropriate settlement.

Procedural Posture

The Union filed case 03-CA-157918 on August 13, 2015 alleging Employer violated Sections 8(a)(1) and (3) of the Act by retaliating against (b) (6), (b) (7)(C) for engaging in union activity. (b) (6), (b) (7)(C) provided (b) (6), (b) (7)(C), (b) (7)(D) to board agent Patricia Petcock on (b) (6), (b) (7)(C) 2015. Region 3 announced dismissal of the case on October 29, 2015.

Facts

Employer hired (b) (6), (b) (7)(C) as a (b) (6), (b) (7)(C) in (b) (6), (b) (7)(C). In or around (b) (6), (b) (7)(C) 2015, (b) (6), (b) (7)(C) switched (b) (6), (b) (7)(C) status to (b) (6), (b) (7)(C) availability and received a pay increase of (b) (6), (b) (7)(C). Later that month, (b) (6), (b) (7)(C) met (b) (6), (b) (7)(C) and joined FFWC. (b) (6), (b) (7)(C) became a local leader, serving as a media spokesperson and leading rallies. On (b) (6), (b) (7)(C) 2015, (b) (6), (b) (7)(C) participated in a McRaides rally in response to McDonald's decision to limit raises to its corporate operated stores. During the rally (b) (6), (b) (7)(C) gave interviews to

various news outlets.<sup>1</sup> (b) (6), (b) (7)(C) went on strike with fast food workers across the country on (b) (6), (b) (7)(C). The Union notified Employer of (b) (6), (b) (7)(C) participation by posting a strike notice on the door before the first shift began.<sup>2</sup> During the strike, (b) (6), (b) (7)(C) at a rally outside of (b) (6), (b) (7)(C) store and (b) (6), (b) (7)(C) to a local news station.<sup>3</sup>

Shortly after (b) (6), (b) (7)(C) returned to work, Employer initiated an anti-union campaign in response to the (b) (6), (b) (7)(C) strike. First, Employer placed new restrictions on employees' ability to communicate with one another by posting no solicitation signs throughout the store, including in the breakroom and outside of the manager's office. (b) (6), (b) (7)(C), (b) (7)(C) Employer also issued specific directives to employees not to speak to (b) (6), (b) (7)(C) because of (b) (6), (b) (7)(C) union leadership. (b) (6), (b) (7)(C), (b) (7)(C). Additionally Employer denigrated (b) (6), (b) (7)(C) in front of (b) (6), (b) (7)(C) co-workers and retaliated against (b) (6), (b) (7)(C) by cutting (b) (6), (b) (7)(C) hours. (b) (6), (b) (7)(C) told crewmembers that "whoever was involved [in the strike] was fucking stupid." (b) (6), (b) (7)(C) Management also began gradually reducing (b) (6), (b) (7)(C) hours. While Employer claimed the reduction was the consequence of (b) (6), (b) (7)(C) requesting too much time off and absenteeism, there was no increase or change in (b) (6), (b) (7)(C) absences before (b) (6), (b) (7)(C) 2015.

(b) (6), (b) (7)(C) became more involved with FFWC despite Employer's attempts to intimidate (b) (6), (b) (7)(C) participated in (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) wage board rallies hosted by the Union. (b) (6), (b) (7)(C) during a (b) (6), (b) (7) on (b) (6), (b) (7) in Buffalo, NY. On (b) (6), (b) (7)(C) 2015, (b) (6), (b) (7) a rally in Rochester to celebrate the wage board's announcement that it had recommended a \$15 an hour minimum wage by 2021.<sup>4</sup> Later that day, (b) (6), (b) (7)(C) informed (b) (6), (b) (7)(C) hourly wage was being cut from (b) (6), (b) (7)(C) explained that the reduction was due to (b) (6), (b) (7)(C) switching (b) (6), (b) (7)(C) hours back to (b) (6), (b) (7)(C) availability in (b) (6), (b) (7)(C) claimed (b) (6), (b) (7)(C) delay in revoking the (b) (6), (b) (7)(C) was motivated by altruism. Several days later on (b) (6), (b) (7)(C) 2015, when the wage board adopted its final recommendation to raise pay, (b) (6), (b) (7)(C) issued (b) (6), (b) (7)(C) two disciplinary write-ups. The first write-up was for failure to adequately complete cleaning tasks. It is worth noting (b) (6), (b) (7)(C) cleaning had not been inspected since (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) had not received a warning about its inadequacy since (b) (6), (b) (7)(C). The second write-up was because (b) (6), (b) (7)(C) refused to follow (b) (6), (b) (7)(C) instruction to do askasktell on the shift. Following the disciplinary write-ups, (b) (6), (b) (7)(C) hours were further reduced. Management also continued to express its animus towards (b) (6), (b) (7)(C)

<sup>1</sup> (b) (6), (b) (7)(C)

<sup>2</sup> Exhibit 1: Delivery Confirmation Email

<sup>3</sup> (b) (6), (b) (7)(C)

<sup>4</sup> (b) (6), (b) (7)(C)



union involvement. For instance, in (b) (6), (b) (7)(C) told (b) (6), (b) (7)(C) could not leave at the end of the shift stating “you just got (b) (6), (b) (7)(C) an hour now we are going to make you earn it.” (b) (6), (b) (7)(C)

### Argument

A charging party can prove that animus motivated an adverse employment decision by showing: (1) the employee was engaged in protected activity; (2) the employer was aware of the activity; and (3) animus towards the protected activity was a substantial or motivating reason for the employer’s action. *Wright Line*, 251 NLRB 1083 (1980), enfd. 662 F.2d 889 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982), approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393, 399-403 (1983); *American Gardens Management Co.*, 338 NLRB 644 (2002). Once the charging party establishes a prima facie case, the Employer must provide a nondiscriminatory reason for terminating the worker. An employer will virtually always be able to articulate a legitimate non-discriminatory reason for an adverse employment action. Thus, the charging party is afforded the opportunity to argue that the proffered reason is pretextual. Here, the union’s prima facie case is clear. It appears that the Region ended its analysis once Employer produced lawful reasons for its series of retaliatory actions regardless of how unlikely those reasons may have been.

#### A. FFWC Has Established A Prima Facie Case of Discrimination

The union has proven each indicia of discrimination beyond refute. First, (b) (6), (b) (7)(C) has been constantly engaged in public union activity since (b) (6), (b) (7)(C) joined the Union in (b) (6), (b) (7)(C) 2015. (b) (6), (b) (7)(C) participated in a one-day nationwide strike on (b) (6), (b) (7)(C). 29 U.S.C. §163; *NLRB v. Washington Aluminum Co.*, 370 U.S. 9 (1962); *Hostar Marine Trans. Sys. Inc.*, 298 NLRB 188, 193 (1990). (b) (6), (b) (7)(C) also (b) (6), (b) (7)(C) union rallies in Rochester and (b) (6), (b) (7)(C) in Buffalo along with several of (b) (6), (b) (7)(C) co-workers. *Bally’s Park Place*, 355 NLRB 1319, 1322 (2010)(holding attending union rally constitutes protected concerted activity); *Blue Circle Cement Company*, 311 NLRB 623, 624 (1993); *Kaiser Engineers*, 213 NLRB 752, 755 (1974)(explaining that testifying before a legislative body on issues related to employment is protected under Section 7 of the Act).

Next, Employer undoubtedly knew about (b) (6), (b) (7)(C) various protected conduct. The union delivered a strike notice to the store on (b) (6), (b) (7)(C). Further, Employer’s knowledge can be inferred from (b) (6), (b) (7)(C) presence on the strike line in front of the store on (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) multiple (b) (6), (b) (7)(C). *Holsum de PR Inc.*, 344 NLRB 694, 713 (2005)(holding Employer knowledge could be inferred because union activity occurred in plain sight) *enforced* 456 F.3d 265 (1st Cir. 2006); *Sprain Brook Manor Nursing Home, LLC*, 361 NLRB No. 54 (2014)(finding knowledge could be inferred from discriminatees interviews with newspaper and television reporters).

Finally, there is considerable evidence Employer's retaliatory actions were motivated by animus. Because direct evidence of discriminatory intent is rarely available, the Board will infer animus from the totality of the circumstances. *Embassy Vacation Resorts*, 340 NLRB 846, 848 (2003). First, animus can be inferred from the fact that Employer posted no-solicitation signs shortly after the strike. It is well established that other unfair labor practices are indicative of animus. *Stark Electric, Inc.*, 324 NLRB 1207 (1997)(holding evidence of employer's other unfair labor practices may be used to demonstrate animus). Here, Employer's promulgation of a no-solicitation rule in response to the strikes is a clear violation of Section 8(a)(1). *See Lutheran Heritage Village-Livonia*, 343 NLRB 646, 647 (2004). So is Employer's directive that co-workers should not speak to (b) (6), (b) (7)(C)

Further, (b) (6), (b) (7)(C) statement that anyone who went on strike was "fucking stupid" is also clear evidence of animus. Even though the statement was protected speech under 8(c) of the Act, it still evidences Employer's opposition to (b) (6), (b) (7)(C) union activity and may serve as background evidence of animus. *See Eg. Affiliated Foods Inc.*, 328 NLRB 1107 (1999); *Greenbriar Rail Servs.*, 2014 NLRB LEXIS 534 at 122 (June 30, 2014). Employer's statement that (b) (6), (b) (7)(C) needed to "earn" the wage gains provided by the wage board is also background evidence of animus.

Employer also demonstrated animus by departing from its past practice of tolerating (b) (6), (b) (7)(C) absences and requests for time off. *JAMCO*, 294 NLRB 896, 905 (1989) *aff'd mem.* 927 F.2d 614 (11th Cir. 1991)(holding union established animus by departing from past practices). While Employer claims it reduced (b) (6), (b) (7)(C) hours because of (b) (6), (b) (7)(C) absences, a careful examination of (b) (6), (b) (7)(C) work record would reveal that there was no increase in the frequency of (b) (6), (b) (7)(C) call-ins in the two weeks before (b) (6), (b) (7)(C) hours were reduced. In fact the only notable difference was that one of (b) (6), (b) (7)(C) absences in (b) (6), (b) (7)(C) was the result of (b) (6), (b) (7)(C) strike activity.

In sum, the union has established an exceedingly clear prima facie case that Employer's decision to cut (b) (6), (b) (7)(C) hours and pay was motivated by anti-union animus. The same indicia point to a discriminatory motive for disciplining (b) (6), (b) (7)(C)

B. The Suspicious Timing of Employer's Decisions to Reduce (b) (6), (b) (7)(C) Pay and Hours is Evidence of Pretext

The timing of adverse actions can be strong evidence of pretext. Here, both (b) (6), (b) (7)(C) reduction pay and hours closely followed critical events in FFWC's campaign. The Board has repeatedly found that adverse action taken a "mere month" after the discriminatee engaged in protected activity is evidence of pretext. *See Eg. NLRB v. RELCO Locomotive*, 734 F.3d 764, 782 (2013)(it was reasonable for the Board to infer animus from discharge "a mere month" after discriminatee publicly challenged CEO); *Real Foods Co.*, 350 NLRB 309 (2007)(one month not attenuated when Employer engaged in a series of escalating events responding to employee's organizing); *Classic Sofa Inc.*, 346 NLRB 219 (2006)(layoffs one month after the election



established unlawful motivation); *Electronic Data Systems Corp.*, 305 NLRB 219 (1991)(reasonable to infer improper motive where Employer discharged employee one month after it discovered union organizing efforts). Here, Employer decided to reduce (b) (6), (b) (7)(C) pay *the same day* (b) (6), a union rally celebrating the wage board's announcement recommending higher pay in the fast food industry. (b) (6), (b) (7) the FFWC rally in support of the wage board's recommendation on (b) (6), (b) (7)(C) 2015. Later that day at work, (b) (6), (b) (7)(C) told (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) pay was being reduced. While Employer claims it cut (b) (6), (b) (7)(C) pay because (b) (6), (b) (7)(C) switched to (b) (6), (b) (7)(C) availability, its decision came nearly four months after (b) (6), (b) (7)(C) changed (b) (6), (b) (7)(C) status back to (b) (6), (b) (7)(C) Employer waited four months to adjust (b) (6), (b) (7)(C) pay to reflect (b) (6), (b) (7)(C) availability. (b) (6), (b) (7)(C) pay cut happen the same day (b) (6), (b) (7)(C) rallied in support of a campaign victory and approximately four months after Employer's excuse for reducing (b) (6), (b) (7)(C) pay. There is a clear causal connection between (b) (6), (b) (7)(C) union activity and (b) (6), (b) (7)(C) pay reduction. Conversely, there is an inexplicable four month lag between when (b) (6), (b) (7)(C) switched (b) (6), (b) (7)(C) availability and when Employer reduced (b) (6), (b) (7)(C) pay. The proximate timing of (b) (6), (b) (7)(C) union activity and attenuated timing of changing (b) (6), (b) (7)(C) availability both suggest Employer's reason for reducing (b) (6), (b) (7)(C) pay is pretextual.

Here, (b) (6), (b) (7)(C) hours were significantly reduced the week after (b) (6), (b) (7)(C) went on strike and further cut the week (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Per Board precedent, this proximate timing is sufficiently suspicious to suggest pretext.

#### C. Employer's Reason for Disciplining (b) (6), (b) (7)(C) is a pretext

An employer's decision to discipline an employee may be pretextual notwithstanding the employee's violation of a legitimate work rule if the reasoning does not ring true in light of the overall circumstances. *See Neptune Water Meter Co. v. NLRB*, 551 F.2d 568, 570 (1977); *Detroit Paneling Systems, Inc.*, 330 NLRB 1170, 1170 (2000); *SCA Tissue North America LLC*, 338 NLRB 1130, 1135 (2003). Here, Employer disciplined (b) (6), (b) (7)(C) for allegedly not doing "ask, ask, tell" and failing to clean. These actions do not ring true in light of the overall circumstances since (b) (6), (b) (7)(C) always completes these tasks satisfactorily and was never warned that failing to complete a task would result in discipline.

### Conclusion

In sum, the strong prima facie and multiple indicia of pretext demonstrate that Employer took multiple adverse actions against (b) (6), (b) (7)(C) in response to (b) (6), (b) (7)(C) union activity. For the reasons stated hear, and based on such other considerations as General Counsel may find applicable the union respectfully asks the decision of Region 3 to dismiss the charge be reversed.



Fast Food <strike.evidence15@gmail.com>

---

## STRIKE NOTICE ROCHESTER NY MCDONALDS

2 messages

---

(b) (6), (b) (7)(C)@metrojustice.org>  
To: strikeevidence15@gmail.com

(b) (6), (b) (7)(C) 2015 at (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) hand delivered notice to (b) (6), (b) (7)(C).  
1422-32 Mt Hope Ave, Rochester NY 14620

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)



t: (b) (6), (b) (7)(C) | m: (b) (6), (b) (7)(C)  
| e: (b) (6), (b) (7)(C)@MetroJustice.org  
| w: MetroJustice.org

(b) (6), (b) (7)(C)@metrojustice.org>  
To: strikeevidence15@gmail.com

(b) (6), (b) (7)(C) 2015 at (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) delivered notice. Lobby not open, so notice taped on door, with content facing inside.

45 Jay Scutti Blvd Rochester NY 14626



Rochester Fight For 15

t: (b) (6), (b) (7)(C) | m: (b) (6), (b) (7)(C)  
| e: (b) (6), (b) (7)(C)@MetroJustice.org  
| w: MetroJustice.org

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**APPEAL FORM**

To: General Counsel  
Attn: Office of Appeals  
National Labor Relations Board  
Room 8820, 1099 14th Street, N.W.  
Washington, D.C. 20570

Date: November 13, 2015

~~Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in~~  
Fast Food Workers Committee and Sharel Ventures LLC d/b/a McDonald's and McDonald's Corp.,  
as Joint and Single Employers

Case Name(s).

03-CA-157918

Case No(s). (If more than one case number, include all case numbers in which appeal is taken.)

A handwritten signature in dark ink, appearing to be 'MS' or similar, is written over a horizontal line.

(Signature)





UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**  
OFFICE OF THE GENERAL COUNSEL  
Washington, DC 20570

November 16, 2015

MATTHEW J. FUSCO, ESQ.  
TREVETT CRISTO SALZER & ANDOLINA, PC  
2 STATE ST STE 1000  
ROCHESTER, NY 14614

Re: Sharel Ventures LLC. d/b/a McDonald's &  
McDonalds's USA, LLC, as Joint and  
Single Employers  
Case 03-CA-157918

Dear Mr. Fusco:

We have received your appeal and accompanying material. We will assign it for processing in accordance with Agency procedures, which include review of the investigatory file and your appeal in light of current Board law. We will notify you and all other involved parties as soon as possible of our decision.

Sincerely,

Richard F. Griffin, Jr.  
General Counsel

By:

A handwritten signature in black ink that reads "Deborah M.P. Yaffe". The signature is written in a cursive, flowing style.

---

Deborah M.P. Yaffe, Director  
Office of Appeals

cc: RHONDA P. LEY  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS  
BOARD  
130 S ELMWOOD AVE STE 630  
BUFFALO, NY 14202-2465

DOREEN S. DAVIS, ESQ.  
JONES DAY  
222 E 41ST ST  
NEW YORK, NY 10017-6739

Sharel Ventures LLC. d/b/a McDonald's &  
McDonalds's USA, LLC, as Joint and  
Single Employers  
Case 03-CA-157918

-2

(b) (6), (b) (7)(C)

SHAREL VENTURES LLC, D/B/A  
MCDONALD'S  
45 JAY SCUTTI BLVD  
ROCHESTER, NY 14623

GLORIA SANTONA  
MCDONALD'S USA, LLC  
2111 MCDONALD'S DR  
OAK BROOK, IL 60523-2199

JAMES P. ANELLI, ESQ.  
1037 RAYMOND BLVD FLR 16  
NEWARK, NJ 07102

FAST FOOD WORKERS COMMITTEE  
2-4 NEVINS ST  
BROOKLYN, NY 11217-1010

MICHAEL FERRELL, ESQ.  
JONES DAY  
77 W WACKER DR STE 3500  
CHICAGO, IL 60601-1701

ILANA YOFFE, ESQ.  
JONES DAY  
222 E 41ST ST  
NEW YORK, NY 10017-6739

CHRISTINA L. SHIFTON  
70 LINDEN OAKS STE 210  
ROCHESTER, NY 14625

cl

**MEMORANDUM**

TO: File

DATE: (b) (6), (b) (7)(C) 2015

RE: Sharel Ventures LLC. d/b/a McDonald's & McDonalds's USA, LLC, as Joint and  
Single Employers  
Case 03-CA-157918

FROM: PATRICIA E. PETOCK, FIELD EXAMINER

**CONVERSATION WITH** (b) (6), (b) (7)(C)

Spoke to (b) (6), (b) (7)(C) to clarify some things.

(b) (5), (b) (6), (b) (7)(C)



Sharel Ventures LLC. d/b/a McDonald's & - 2 -  
McDonalds's USA, LLC, as Joint and  
Single Employers  
Case 03-CA-157918

(b) (6), (b) (7) 2015  
(C)

(b) (5), (b) (6), (b) (7)(C)

.

**From:** [Murphy, Paul](#)  
**To:** [Domagala, Katy](#); [Larkin, Sandra L.](#); [Petock, Patricia E.](#)  
**Subject:** FW: 03-CA-157918 links for appeal and COA  
**Date:** Wednesday, November 25, 2015 12:30:25 PM  
**Attachments:** [image001.gif](#)  
[image002.gif](#)

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I approve the comment on appeal.

---

**From:** Larkin, Sandra L.  
**Sent:** Wednesday, November 25, 2015 11:21 AM  
**To:** Murphy, Paul  
**Subject:** FW: 03-CA-157918 links for appeal and COA

(b) (5), (b) (6), (b) (7)(C)

---

**From:** Petock, Patricia E.  
**Sent:** Wednesday, November 25, 2015 10:27 AM  
**To:** Larkin, Sandra L.  
**Subject:** 03-CA-157918 links for appeal and COA

☐ [APE.03-CA-157918.03-CA-157918 Letter to Appeals.pdf](#)

☐ [DEV.03-CA-157918 \(b\) \(6\), \(b\) \(7\)\(C\) Appeal Ex 1.pdf](#)

☐ [COA.03-CA-157918.Comment on Appeal.docx](#)

**Patricia Petock**

Field Examiner  
National Labor Relations Board, Region 3  
130 S. Elmwood Ave. Suite 630  
Buffalo, NY 14202  
Phone: 716-551-4944  
Fax: 716-551-4972

**From:** [Domagala, Katy](#)  
**To:** [Porto, Louis E.](#)  
**Subject:** FW: 03-CA-157918 links for appeal and COA  
**Date:** Wednesday, November 25, 2015 12:34:04 PM  
**Attachments:** [image001.gif](#)  
[image002.gif](#)

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**KATY L. DOMAGALA**  
**COMPLIANCE ASSISTANT**  
**NXP**  
**REGION 3, BUFFALO**  
**(716)551-3310**

---

**From:** Murphy, Paul  
**Sent:** Wednesday, November 25, 2015 12:30 PM  
**To:** Domagala, Katy; Larkin, Sandra L.; Petock, Patricia E.  
**Subject:** FW: 03-CA-157918 links for appeal and COA

I approve the comment on appeal.

---

**From:** Larkin, Sandra L.  
**Sent:** Wednesday, November 25, 2015 11:21 AM  
**To:** Murphy, Paul  
**Subject:** FW: 03-CA-157918 links for appeal and COA

(b) (5), (b) (6), (b) (7)(C)

---

**From:** Petock, Patricia E.  
**Sent:** Wednesday, November 25, 2015 10:27 AM  
**To:** Larkin, Sandra L.  
**Subject:** 03-CA-157918 links for appeal and COA

☐ [APE.03-CA-157918.03-CA-157918 Letter to Appeals.pdf](#)

☐ [DEV.03-CA-157918 \(b\) \(6\), \(b\) \(7\)\(C\) Appeal Ex 1.pdf](#)

☐ [COA.03-CA-157918.Comment on Appeal.docx](#)

**Patricia Petock**  
Field Examiner  
National Labor Relations Board, Region 3

130 S. Elmwood Ave. Suite 630

Buffalo, NY 14202

Phone: 716-551-4944

Fax: 716-551-4972

**From:** [Yaden, Linda](#)  
**To:** [King, Lynisa B.](#)  
**Subject:** Sharel Ventures, 3-CA-157918  
**Date:** Monday, February 8, 2016 12:34:46 PM

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Gpra passed

McDonald's store

Cp Fast Food Workers Committee filed a Section 8(a)(1) and 3 charge alleging that employee

(b) (6), (b) (7)(C) suffered reduced hours and pay; and was disciplined because (b) (6), (b) (7)(C) was (b) (6), (b) (7)(C).  
[REDACTED]

(b) (5)  
[REDACTED]  
(b) (6), (b) (7)(C)  
[REDACTED]  
[REDACTED]  
[REDACTED]

(b) (5)  
[REDACTED]  
[REDACTED]

(b) (5), (b) (6), (b) (7)(C)  
[REDACTED]



Case Name: Sharel Ventures LLC. d/b/a McDonald's & McDonald's Corp., as Joint and Single Employers  
Case No.: 03-CA-157918  
Agent: [AGENT NAME AND TITLE]

**CASEHANDLING LOG**

Date	Person Contacted	Method of Contact	Description of Contact or Activity
9/1	C Shifton, working with Anelli	Phone	Wanted extension of time to 9/18 and will provide witnesses and statement. She will call back with availability of (b) (6) witnesses.
	Shifton	Phone	(b) (5), (b) (6), (b) (7)(C)
9/9	Shifton	Phone	McDonald's corp would like to participate and not available on (b) (6) Shifton would like to reschedule appt (b) (6), (b) (7)(C) She will check everyone's availability and get back to me.
10/26	Fusco	Phone	Explained RD's decision to dismiss. Gave options
10/28	Fusco	Email	U would like short form dismissal.
(b) (5), (b) (7)(C)		Phone	Per SL and PM, can contact directly. Left vm message for (b) (5), (b) (7)(C) to call me.



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**  
OFFICE OF THE GENERAL COUNSEL  
Washington, DC 20570

February 10, 2016

MATTHEW J. FUSCO, ESQ., ESQ.  
TREVETT CRISTO SALZER &  
ANDOLINA, PC  
2 STATE ST STE 1000  
ROCHESTER, NY 14614

Re: Sharel Ventures LLC. d/b/a McDonald's &  
McDonalds's USA, LLC, as Joint and  
Single Employers  
Case 03-CA-157918

Dear Mr. Fusco:

This office has carefully considered the appeal from the Acting Regional Director's refusal to issue complaint. We agree with the Acting Regional Director's decision and deny the appeal.

The Regional Office investigation failed to disclose that the Employer took adverse employment actions against the alleged discriminatee because of (b) (6), (b) (7)(C) protected activities. Rather, the evidence established that the alleged discriminatee received the actions for legitimate business reasons. In this regard, the Employer has previously disciplined the alleged discriminatee for similar work related issues before (b) (6), (b) (7)(C) engaged in the protected activities. Thus, the evidence failed to establish that the alleged discriminatee's protected activities motivated the Employer's decision. In these circumstances, the Employer established that it would have disciplined the alleged discriminatee even absent (b) (6), (b) (7)(C) protected activities. Therefore, we do not find that the Employer violated the Act as alleged.

Contrary to the assertion in the appeal, the evidence is insufficient to establish that the Employer unlawfully reduced the alleged discriminatee's pay in (b) (6), (b) (7)(C) 2015. Rather, any changes made by the Employer are supported by legitimate business reason, e.g. the change in (b) (6), (b) (7)(C) availability to work (b) (6), (b) (7)(C). Furthermore, there is insufficient evidence to establish that the Employer scheduled the alleged discriminatee to work less than (b) (6), (b) (7)(C) usual hours for any reason violative of the Act.

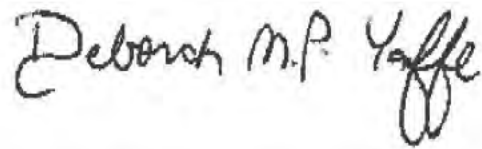
Sharel Ventures LLC. d/b/a McDonald's &  
McDonalds's USA, LLC, as Joint and  
Single Employers  
Case 03-CA-157918

-2

Accordingly, we deny the appeal.

Sincerely,

Richard F. Griffin, Jr.  
General Counsel



By:

Deborah M.P. Yaffe, Director  
Office of Appeals

cc: RHONDA P. LEY  
REGIONAL DIRECTOR  
NATIONAL LABOR RELATIONS  
BOARD  
130 S ELMWOOD AVE STE 630  
BUFFALO, NY 14202-2465

(b) (6), (b) (7)(C)

SHAREL VENTURES LLC, D/B/A  
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ROCHESTER, NY 14623

GLORIA SANTONA  
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Sharel Ventures LLC. d/b/a McDonald's &  
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-3

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kh